



EUROPEAN PARLIAMENT

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*Committee on Legal Affairs*

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**2013/0255(APP)**

3.3.2014

## **OPINION**

of the Committee on Legal Affairs

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a Council regulation on the establishment of the European  
Public Prosecutor's Office  
(COM(2013)0534 – C7-0000/2014 – 2013/0255(APP))

Rapporteur: Evelyn Regner

PA\_Consent\_Interim

## **SUGGESTIONS**

The Committee on Legal Affairs calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to incorporate the following suggestions in its report:

### **Recitals**

A. Whereas the principle of mutual recognition should become the cornerstone of judicial cooperation in criminal matters and be seen as the motor of European criminal law integration,

### **Recommendations**

1. Calls on the Council, when examining the Commission proposal, to take into account the following recommendations:
  - (i) the criteria governing the ancillary competence of the EPPO under Article 13 of the proposal should be clearly defined beforehand. In particular,
    - a) the offences referred to in Article 13 should only be those provided for in legislative acts of the Union;
    - b) such offences should be considered as ‘inextricably linked’ with the offences referred to in Article 12 whenever they are instrumental in committing them or perpetrated in order to ensure their impunity;
    - c) the condition that the offences referred to in Article 12 are preponderant should also include a qualitative - and not only a quantitative - assessment;
    - d) the condition that the offences referred to in Article 13 are based on identical facts should be deleted, so that the ancillary competence would cover both cases where the same offender commits several separate criminal acts and cases where one and the same act is an offence against several different provisions;
  - (ii) relations of the EPPO with Eurojust, Europol and OLAF should be regulated to the greatest extent possible in the regulation establishing the EPPO. The agreements referred to in Articles 57 and 58 of the proposal should, therefore, only relate to merely practical arrangements;
  - (iii) on no account must the EPPO exercise its competence with regard to offences committed before it becomes fully operative. Article 71 of the proposal should be amended accordingly;
  - (iv) to make for greater certainty as to the law, the competent court should be determined beforehand, in keeping with the principle of the ‘natural adjudicator’. Article 27 of the proposal should be amended accordingly;
  - (v) the means of investigation should be uniform, in order to avert forum shopping, and they should be compatible with the legal systems of the Member States;

2. welcomes the fact that, under the regime applicable to non-contractual liability of the EPPO, the Court of Justice shall have jurisdiction in disputes over compensation for damage in similar terms to those set out in Article 268 TFEU; however, draws the attention to the fact that two different courts - at EU and national level respectively - would hear actions for non-contractual liability of the EPPO and actions for annulment of its procedural measures, including those from which a right to compensation for damage may arise;
3. calls on the Commission to develop a coherent legislative framework for the EPPO and Eurojust that reflects the different functions of the two bodies as enshrined in Articles 85 and 86 TFEU respectively;
4. recommends that, in accordance with the provisions laid down in Article 86(1) TFEU, whereby the Council may establish an EPPO 'from Eurojust', the Commission envisage a mere transfer of financial resources from OLAF to the EPPO and that EPPO take advantage of the expertise and the added value of Eurojust's staff members;
5. urges the Commission, in case of Member States opting out or enhanced cooperation being established in accordance with Article 86(1) TFEU, to make appropriate proposals in order to regulate judicial cooperation between participating and non-participating Member States, with special regard to cases where cross-border offences are committed, or offenders are based, in non-participating Member States;
6. deplores that, based on the current experiences of mutual recognition, it is hard to expect that Member States will be willing to recognise and admit evidence which was gathered in other Member States on the basis of substantially different standards; points out that the divergence between the national laws of the Member States is particularly striking in relation to special investigation techniques, as it is often the case that, whereas a certain technique is strictly regulated in some Member States, it is not regulated at all in others;
7. takes the view that the EPPO could join the College of Eurojust as an extra member whenever matters related to the protection of financial interest of the Union are discussed;
8. considers that the area of applicability of national procedural law should be carefully examined and, possibly, restricted, for variable geometry as to the powers of the EPPO would undermine its efficiency and encourage forum shopping, as well as affecting the rights of the suspect or accused person;
9. considers that appropriate training in EU criminal law for European Delegated Prosecutors and their staff should be provided in a uniform, effective way;
10. welcomes the training courses for lawyers jointly organised by the European Criminal Bar Association (ECBA) and the Academy of European Law (ERA) and encourages tailored courses in order to enhance the quality of defence in criminal proceedings brought by the EPPO.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	11.2.2014
<b>Result of final vote</b>	+: 19 -: 4 0: 0
<b>Members present for the final vote</b>	Raffaele Baldassarre, Sebastian Valentin Bodu, Françoise Castex, Christian Engström, Marielle Gallo, Giuseppe Gargani, Lidia Joanna Geringer de Oedenberg, Sajjad Karim, Klaus-Heiner Lehne, Antonio López-Istúriz White, Antonio Masip Hidalgo, Alajos Mészáros, Bernhard Rapkay, Evelyn Regner, Francesco Enrico Speroni, Alexandra Thein, Cecilia Wikström, Tadeusz Zwiefka
<b>Substitute(s) present for the final vote</b>	Eva Lichtenberger, Angelika Niebler, József Szájer, Axel Voss
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Sylvie Guillaume, Jan Mulder, Jaroslav Paška